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ENROLLED ORIGINAL

AN ACT

Codification District of Columbia Code 2001 Supp.

D.C. ACT 13-541

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 22, 2000

To comply with the mandates of the Women's Health and Cancer Rights Act of 1998 by providing women the right to receive health plan benefits pertaining to a mastectomy and breast reconstruction in connection with such surgery when a health plan provides medical and surgical benefits with respect to a mastectomy; to provide the right for women to receive health plan benefits which cover any hormone replacement therapy that is prescribed or ordered for treating symptoms and conditions of menopause; to provide participants and beneficiaries with written notice of these benefits; and to prohibit a health plan from avoiding the provisions of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Women's Health and Cancer Rights Federal Law Conformity Act of 2000".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Commissioner" means Commissioner of the Department of Insurance and Securities Regulation.

(2) "District" means the District of Columbia.

(3) "Group health plan" means an employee welfare plan (as defined in section 3 (1) of the Employee Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 829; 29 U.S.C. § 1002(1)), to the extent that the plan provides medical care and includes items and services paid for as medical care to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

(4) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and includes items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital, or medical service plan contract, or health maintenance organization contract offered by a health insurer.

(5) "Health insurer" means any person that provides one or more health benefit plans or insurance in the District, including an insurer, a hospital and medical services corporation, a fraternal benefit society, a health maintenance organization, a multiple employer

welfare arrangement, or any other person providing a plan of health insurance subject to the authority of the Commissioner.

(6) "Health benefit plan" means any accident and health insurance policy or certificate, hospital and medical services corporation contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided by another benefit arrangement. The term "health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(7) "Individual health plan" means a plan offering health insurance coverage offered to individuals other than in connection with a group health plan.

(8) "Mastectomy" means the surgical removal of all or substantially all of a breast as a result of breast cancer.

Sec. 3. Coverage for reconstructive surgery following mastectomies.

(a) An individual or group health plan which is a health benefit plan, and a health insurer providing health insurance coverage, that provides medical and surgical benefits with respect to a mastectomy shall, in a manner determined in consultation with the attending physician and the patient, provide the following coverage in the case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy:

(1) All stages of reconstruction of the breast on which the mastectomy has been performed;

(2) Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

(3) Prostheses and physical complications at all stages of mastectomy, including lymphedemas.

(b) Coverage for the procedures in subsection (a) of this section may be subject to annual deductibles and coinsurance provisions as may be considered appropriate and as are consistent with those established for other benefits under the health benefit plan or coverage.

Sec. 4. Notice.

(a) Written notice of the availability of coverage, as set forth in section 3, shall be delivered to the participant and beneficiary under the health plan upon enrollment and annually

thereafter. Notice of the benefits shall be prominently positioned in any literature or correspondence made available or distributed by the health benefit plan or health insurer and shall be transmitted to the participant or beneficiary upon the earlier of:

(1) Any yearly informational packet sent to the participant or beneficiary, as part of the packet;

(2) In the next mailing made by the health benefit plan or health insurer to the participant or beneficiary; or

(3) Not later than 60 days after the effective date of this act.

(b) An individual or group health plan which is a health benefit plan, and a health insurer that has already provided notice in order to comply with the Women's Health and Cancer Rights Act of 1998, approved October 21, 1998 (112 Stat. 2681; 29 USC § 1185b, 42 USC § 300 gg-6, and 42 USC § 300gg-52), need not provide additional notice under this act; provided, that it files with the Commissioner a written statement, with a copy of the notice attached, certifying that it is in compliance.

Sec. 5. Hormone replacement therapy coverage.

An individual or group health plan, and a health insurer offering health care coverage that provides coverage for prescription drugs, shall provide benefits which cover any hormone replacement therapy that is prescribed or ordered for treating symptoms and conditions of menopause.

Sec. 6. Prohibitions.

An individual or group health plan which is a health benefit plan, and a health insurer offering health care coverage, shall not:

(1) Deny a patient eligibility, or continued eligibility, to enroll or renew coverage under terms of the health benefit plan, solely for the purpose of avoiding the requirements of this act; or

(2) Penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this act.

Sec. 7. Regulations.

The Commissioner shall promulgate regulations necessary to implement the provisions of this act within 180 days after the effective date of this act.

Sec. 8. Applicability to group health plans.

The provisions of this act shall apply to group health benefit plans for years beginning on or after the effective date of this act.

Sec. 9. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, § 1-233 (c)(3)).

Sec. 10. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3 (a)), a 30-day period of Congressional review as provided in section 602 (c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233 (c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia

APPROVED: December 22, 2000